



Connecticut Department of
**ENERGY &
ENVIRONMENTAL
PROTECTION**

**STATE OF CONNECTICUT
DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION**

Public Hearing – February 22, 2012
Environment Committee
Testimony Submitted by Commissioner Daniel Esty
Presented by Macky McCleary

Raised House Bill No. 5129 - An Act Concerning the Regulation of Certain Low Emission Vehicles, Ionizing Radiation and Stream Channel Encroachment Lines by the Department of Energy and Environmental Protection.

Thank you for the opportunity to present testimony regarding Raised House Bill No. 5129 - An Act Concerning the Regulation of Certain Low Emission Vehicles, Ionizing Radiation and Stream Channel Encroachment Lines. The Department of Energy and Environmental Protection (DEEP) welcomes the opportunity to provide the following testimony.

We appreciate the Committee's willingness to raise this bill at the request of DEEP. This proposal, which we strongly support, would streamline two critical administrative processes. These technical revisions are intended to benefit stakeholders and regulated communities by alleviating burdens while helping the Department pursue its mission more efficiently. The reality of diminishing resources across all sectors of state government requires that the Department transform how it does business by improving program efficacy and procedures wherever possible. Below is a section-by-section summary Raised House Bill No. 5129.

Sections 1-11, 17-25, and 28: Stream Channel Encroachment Lines

These sections effectuate the Department's recommendation to repeal the Stream Channel Encroachment Line (SCEL) program set forth in Conn. Gen. Stat. Sections 22a-342 through 22a-350. The SCEL program regulates the placement of encroachments and obstructions riverward of stream channel encroachment lines to lessen the hazards to life and property due to flooding. However, SCEL now is duplicative of new federal flood control programs.

The SCEL program covers 270 of approximately 5,830 river miles total in Connecticut, approximately 5% of Connecticut's riverine floodplain. When this program was adopted, it was one of the first programs in the nation to identify flood prone areas and establish encroachment lines. Since that time, FEMA has developed the National Flood Insurance Program (NFIP) and studied and mapped flood ways and floodplains in all Connecticut counties. All Connecticut towns participate in the NFIP program. Several state laws that define additional municipal floodplain oversight (such as Conn. Gen. Stat. Sections 25-68i

and 8-21) also offer floodplain protection. Given the small geographic extent of SCEL coverage in the state, the amount of time and effort expended by both applicants and the Department in the preparation and review of SCEL applications, and the existing regulation of floodplain activities by municipalities in accordance with FEMA requirements, the Department recommends that the SCEL program set forth in Conn. Gen. Stat. Sections 22a-342 through 22a-350 be repealed.

Sections 12-15 and 26-27: Regulation of Sources of Ionizing Radiation

The environmental impact of these sections addresses a gap in the current statutory framework and will better protect the environment and public health from the dangers of radiological contamination while also removing an administrative inefficiency by moving from annual to biannual registration for sources of ionizing radiation.

As part of a lean process, the Department identified several areas where the manner in which the Department goes about regulating sources of ionizing radiation, such as x-rays machines and radioactive material could be improved to make it a more efficient and effective program as well as increase consistency with other programs designed to protect public health, safety and the environment. Sections 13, and 26-27 propose the adoption of measures consistent with the Department's enforcement process and procedures, including the authority to issue and enforce orders to correct or abate any violations that could cause or lead to radiological contamination, and to adopt a joint and several liability standard for violations that actually lead to release of radiological contamination.

Additionally, these sections reduce the administrative burden on the regulated community by requiring biannual registration, rather than the annual registration requirement that is currently in place. This proposal will place Connecticut on equal footing with other states that have greater authority to take enforcement action than Connecticut has on radiological contamination. All surrounding states with the exception of Vermont impose larger fees than Connecticut as part of the "Agreement State" program that has been delegated to the states by the federal government.

The Nuclear Regulatory Commission (NRC) is responsible for radioactive material use federally. However, the NRC's jurisdiction is separate and distinct from the Department's jurisdiction. This proposal has no impact on federal regulation of nuclear entities.

For the reasons stated above the Department strongly supports granting the Department the authority to issue and enforce orders to prevent radiological contamination, the adoption of joint and several liability for violations leading to radiological contamination, and the move to biannual registration requirements.

Section 16: Low Emission Vehicles

Motor vehicles are the largest source of toxic and smog-forming air pollutants in Connecticut and throughout much of the United States. The number of vehicles on Connecticut roads and the miles they are travelling are both increasing. The Department's ability to improve and expedite the process for completing mandatory updates to the State's LEV Program by prospectively incorporating by reference the LEV Program updates issued by California. The proposed changes will benefit the State's environment by ensuring that new motor vehicles registered in Connecticut are the cleanest vehicles the auto manufacturers can supply.

The proposed changes to the LEV Program would create a statutory framework in Connecticut that is similar to that found in nearby states that have adopted the LEV standards. Delaware and New Jersey are among those states that have utilized prospective incorporation by reference to comply with frequent LEV Program updates in California. The ability to adopt regulations through prospective incorporation by reference ensures there is never a delay in complying with the federal Clean Air Act mandate of maintaining “identity” with California LEV standards.

The proposed changes to the LEV Program will benefit the regulated community (e.g., auto manufacturers) by removing the need to independently monitor Connecticut’s rule making processes to ensure “identity” with California’s program as required by the federal Clean Air Act. This proposal would lead to economic benefits through efficiency for both the state and regulated entities.

Thank you for the opportunity to present testimony on this proposal. If you should require any additional information, please contact the Department’s legislative liaison, Robert LaFrance, at 424-3401 or Robert.LaFrance@ct.gov.